

PART 2024 - PROPERTY AND SUPPLY

SUBPART Q - PROCUREMENT PREFERENCE PROGRAM

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Part 2024 - Property and Supply

Subpart Q - Procurement Preference Program

§2024.801 Introduction.

The Congress of the United States has recognized the plight of minority and small businesses by passing a variety of legislation focusing on procurement programs. These programs include assistance for small businesses, small disadvantaged businesses (small minority and women-owned businesses), and labor surplus area concerns. Collectively, they are referred to as the beneficiaries of the Procurement Preference Program (PPP). It is the policy of the Government to aid, counsel, assist and protect the interests of the beneficiaries of the PPP in order to preserve free competitive enterprise, and to place with the beneficiaries of the PPP a fair proportion of the total Government contracts for property and services. In accordance with the Small Business Act (15 U.S.C. 637), as implemented by 41 CFR 1-1.7, FmHA has established and implemented a PPP to increase participation in FmHA procurements by the beneficiaries of the PPP.

§2024.802 Purpose.

This subpart describes the methods and responsibilities for managing the procurement process under the FmHA PPP. FmHA Contracting Officers should comply with existing small business legislation by ensuring that beneficiaries of the PPP receive an equitable share of FmHA contracts.

§2024.803 Definitions.

(a) Labor surplus area. A geographical area identified by the U.S. Department of Labor as an area of concentrated unemployment or underemployment or an area of labor surplus.

(b) Labor surplus area set-aside. A labor surplus area set-aside is the act of reserving the entire amount (total set-aside) or a portion (partial set-aside) of a procurement to firms willing to perform at least 50 percent of the required work in a labor surplus area.

(c) Small business. A concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is submitting offers on Government contracts, and can further qualify under the criteria concerning number of employees, average annual receipts, or other criteria, as prescribed by the Small Business Administration. (See Code of Federal Regulations, Title 13, Part 121, as amended, which contains detailed industry definitions and related procedures.)

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(d) Small business/labor surplus area set-aside. A small business/labor surplus area set-aside is the act of reserving the entire amount (total set-aside) or a portion (partial set-aside) of a procurement for the exclusive participation of small business concerns willing to perform at least 50 percent of the required work in a labor surplus area.

(e) Small business set-aside. A set-aside for small business is the act of reserving the entire amount (total set-aside) or a portion (partial set-aside) of a procurement for the exclusive participation of small business concerns.

(f) Small disadvantaged business. For the purposes of this Subpart, a small disadvantaged business is defined as a small business, at least 51 percent of which is owned by minority group members or in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members. Minority group members include Black Americans, Hispanic Americans, Asian-Pacific Americans and Native Americans. Native Americans means American Indians, Eskimos, Aleuts and native Hawaiians. Asian-Pacific Americans means U.S. citizens whose origins are from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia and Taiwan.

(g) Women-owned small business. A women-owned small business is a small business which is at least 51 percent owned, controlled, and operated by a woman or women.

§§2024.804 - 2024.807 (Reserved)

§2024.808 Responsibility of Contracting Officers.

Field office staff exercising delegated procurement authority are instructed to support the PPP by considering the PPP categories and following the procedures shown below when awarding contracts. Definitions of these categories are included in §2024.803 of this Subpart.

(a) Small business set-aside. Federal Procurement Regulations (41 CFR 1-1.7) require that competition for procurements having an anticipated value of less than \$10,000 be limited to small business concerns unless competition is impossible. When procurements are not reserved for small businesses, Contracting Officers should document contract files to indicate why competition among small businesses was impossible. Synopses and solicitations for such requirements should state: "This proposed procurement is totally (or partially) set-aside for small business." Size stan-

dards for distinguishing small business concerns and services identification codes (SIC) for identifying types of services or products are included in Exhibit A of this Subpart. The appropriate size standard and SIC should be indicated in the solicitation document for a small business set-aside. A sample notice for this type of set-aside is attached as Exhibit D of this Subpart.

(b) Small business/labor surplus area set-aside. Synopses and solicitation for such requirements should state: "This proposed procurement is totally (or partially) set aside for small businesses performing this work in a labor surplus area." The location where work will be performed, not the location of the contractor, qualified a procurement as a labor surplus area set-aside. The Finance Office will continually distribute to State Offices updated lists of labor surplus areas identified by U.S. Post Office zip codes. A sample notice for this type of set-aside is attached as Exhibit D of this Subpart. This is the most desirable category in the PPP.

(c) Small disadvantaged business. It is the policy of FmHA that every reasonable, possible effort shall be made by Contracting Officers to seek out, counsel, and advise small disadvantaged business enterprises. FmHA Contracting Officers should actively identify such sources and encourage them to participate in competitive procurements. Since a procurement cannot be set-aside for small disadvantaged businesses, Contracting Officers should solicit quotes or proposals from such firms as often as possible.

(d) Labor surplus area set-aside. This set-aside should be used only when work is to be performed in a labor surplus area and it is impossible to obtain competition from small businesses. When making such set-asides, Contracting Officers must demonstrate that such competition among small businesses is impossible. If competition among small businesses is possible and work is to be performed in a labor surplus area, the procurement should be a small business/labor surplus area set-aside as stated in paragraph (b) of this section. A sample notice of this type of set-aside is attached as Exhibit D of this subpart.

§2024.809 Set-aside priority.

Contracting Officers should consider making procurement set-asides in the following priority:

- (a) Total Small Business/Labor Surplus Area Set-aside.

- (b) Total Small Business Set-aside.
- (c) Partial Small Business/Labor Surplus Area Set-aside.
- (d) Partial Small Business Set-aside.
- (e) Total Labor Surplus Area Set-aside (Large Business).

§2024.810 Certifications.

Contracting Officers will require offerors to certify their size and type of company when submitting quotes or proposals. A certification document suitable for including in solicitations is attached as Exhibit B of this Subpart.

§2024.811 Small business information assistance.

(a) The Small Business Administration (SBA) and the Department of Commerce's Minority Business Centers (MBC) maintain lists of companies qualifying under the FmHA PPP. In addition, many metropolitan areas have established Minority Business Opportunity Committees (MBOC) that maintain similar information. A list of SBA Regional, District, and Branch Offices and the location of MBCs, MBOCs, and major trade associations are attached as Exhibit C of this Subpart. These offices are valuable resources for identifying potential beneficiaries of the PPP.

(b) Contracting Officers are encouraged to use the Procurement Automated Source System (PASS) as a vehicle for obtaining names of potential beneficiaries of the PPP in their areas. PASS is a computerized data base maintained by SBA with over 70,000 small business profiles, including majority/minority enterprises and women-owned firms. SBA may access this system through 67 terminals in the United States. Additional information concerning PASS can be obtained from the SBA Regional, District, or Branch Offices.

(c) FmHA Contracting Officers may contact local chambers of commerce and business advocacy organizations to identify additional sources.

§§2024.812 - 2024.816 [Reserved]

§2024.817 Role of Contract Program Managers. (Revised 7-5-89, PN 112)

Contract Program Managers are to be designated by State Directors as the FmHA Procurement Preference Program Coordinator for their respective States. As the ppp Coordinator, they will be required to: (Revised 7-5-89, PN 112)

(a) maintain liaison with offices indicated in §2024.811 of this Subpart.

(b) distribute labor surplus area data to District and County Offices.

§§2024.818 - 2024.850 (Reserved)

Attachments: Exhibits A, B, C, and D.

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Exhibit A not automated see manual

REPRESENTATIONS AND CERTIFICATIONS

1. SMALL BUSINESS

This () is, () is not, a small business concern. If offeror is a small business concern and is not the manufacturer of the supplies offered, he also represents that all supplies to be furnished hereunder () will, () will not, be manufactured or produced by a small business concern in the United States, its possessions, or Puerto Rico. A small business concern for the purpose of Government procurement is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is submitting offers on Government contracts, and can further qualify under the criteria concerning number of employees, average annual receipts, or other criteria, as prescribed by the Small Business Administration. (See Code of Federal Regulations, Title 13, Part 121, as amended, which contains detailed industry definitions and related procedures.)

2. DISADVANTAGED BUSINESS (MINORITY BUSINESS ENTERPRISE)

This () is, () is not, a minority business enterprise. A minority business enterprise is defined as a "business, at least 51 percent of which is owned by minority group members, or in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members." For the purpose of this definition, minority group members are Black Americans, Hispanic Americans, Asian-Pacific Americans, and Native Americans. Native Americans means American Indians, Eskimos, Aleuts and native Hawaiians. Asian-Pacific Americans means U.S. citizens whose origins are from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the U.S. Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia and Taiwan.

3. WOMAN-OWNED BUSINESS

The offeror represents that the firm submitting this offer () is, () is not, a women-owned business. A women-owned business is a business which is at least 51 percent owned, controlled, and operated by a woman or women. Controlled is defined as exercising the power to make policy decisions. Operated is defined as actively involved in the day-to-day management. For the purpose of this definition, business trusts are exempted. Exempted businesses may voluntarily represent that they are or are not women-owned, if this information is available.

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Exhibit C not automated see manual

Exhibit D not automated see manual

